

DEPARTMENT OF PUBLIC HEALTH  
AND HUMAN SERVICES

CHAPTER 78

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

NOTE: THE CHAPTER 78 TITLE HAS BEEN CHANGED FROM FAMILIES ACHIEVING INDEPENDENCE IN MONTANA TO TEMPORARY ASSISTANCE FOR NEEDY FAMILIES. THE TITLE HEADINGS WILL BE CORRECTED AS OTHER REVISIONS TO THAT PAGE ARE NEEDED DURING THE REPLACEMENT PAGE PERIODS.

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## Subchapter 1

## TANF General Provisions

37.78.101 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF):  
PURPOSE (1) These rules implement Montana's TANF program authorized under section 401 of the Social Security Act, 42 USC 601, et seq. The purpose of this project is to provide temporary assistance for needy families and to assist families in obtaining or advancing in their employment or finding alternatives to public assistance where employment is precluded by disability or other causes. (History: 53-4-212, MCA; IMP, 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.102 TANF: FEDERAL REGULATIONS ADOPTED BY REFERENCE  
(1) The TANF program shall be administered in accordance with the requirements of federal law governing temporary assistance for needy families as set forth in Title IV of the Social Security Act, 42 USC 601 et seq., as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Balanced Budget Act of 1997.

(2) The Montana TANF cash assistance manual in effect July 1, 2005 is adopted and incorporated by this reference. A copy of the Montana TANF cash assistance manual is available for public viewing at each local office of public assistance, and at the Department of Public Health and Human Services, Human and Community Services Division, 1400 Broadway, P.O. Box 202952, Helena, MT 59620-2952. Manual updates are also available on the department's website at [www.dphhs.mt.gov](http://www.dphhs.mt.gov). (History: 53-4-212, MCA; IMP, 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 952, Eff. 3/29/02; AMD, 2002 MAR p. 1771, Eff. 6/28/02; AMD, 2003 MAR p. 15, Eff. 1/17/03; AMD, 2003 MAR p. 1301, Eff. 7/1/03; AMD, 2004 MAR p. 200, Eff. 1/30/04; AMD, 2004 MAR p. 1482, Eff. 7/2/04; AMD, 2005 MAR p. 1591, Eff. 8/26/05.)

37.78.103 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF):

DEFINITIONS The following definitions apply to this chapter:

(1) "Assistance unit" means a minor child or children and all individuals who live with the child and are related to the child by blood, marriage, adoption, or by law if the child was conceived by artificial insemination, provided that the relationship is within the fifth degree of kinship as specified in the definition of caretaker relative in this rule and provided that the individual meets the eligibility requirements to have the individual's needs covered by temporary assistance for needy families (TANF).

(2) "Benefit month" means the calendar month for which benefits are issued.

(3) "Budget month" means the calendar month used to determine eligibility for TANF cash assistance and to calculate the amount of the cash assistance payment. Under the prospective budgeting method, the budget month and the benefit month are the same.

(4) "Caretaker relative" means a specified caretaker relative.

(5) "Case manager" means the person who provides guidance for a participant in the TANF cash assistance employment and training or activity program.

(6) "Case management" means the process of formulating and developing and maintaining a family investment agreement/WoRC employability plan for a participant.

(7) "Child support rights" means a child's legal entitlement to cash assistance from a parent with whom the child does not live.

(8) "Community operating plan/annual agreement" means the document developed by the community advisory council for a particular county or counties which sets forth local decisions made in areas where community flexibility is allowed.

(9) "Community service" means any hours a participant volunteers in a recognized volunteer position.

(10) "Deemed income" means the portion of the income of a member of the assistance unit considered available as unearned income to the assistance unit, whether or not it is actually contributed to the assistance unit.

(11) "Department" means the department of public health and human services.

(12) "Domestic violence" means physical, sexual, and/or mental or emotional abuse of a member of the assistance unit by a person with whom that member lives or with whom that member has recently lived which is sufficiently severe to interfere with the TANF participant's ability to become employed or seek alternatives to public assistance.

(13) "Earned income" means all income, whether in cash or in kind, earned by an individual through wages, salary, commissions, tips, or any other profit from activity in which the individual is engaged, including but not limited to all amounts withheld or deducted for income or social security taxes, garnishments, attachments, income deductions or insurance premiums or any other withholdings.

(14) "Educational activities" means activities that include but are not limited to:

- (a) independent GED preparation;
- (b) basic and remedial education to provide participant with brushup skills as needed for employment;
- (c) English proficiency for participants unable to understand, read, speak or write well enough to allow employment commensurate with participant's employment goal;
- (d) attending high school or alternative high schools; and
- (e) attending GED preparation courses.

(15) "Eligibility case manager" means the person who determines eligibility for benefits, makes referrals to other resources, monitors the participants' progress and authorizes benefits.

(16) "Employability plan" means a written plan developed by the participant and the work readiness component (WoRC) case manager which sets forth services and activities intended to assist the participant in obtaining and retaining employment.

(17) "Employment and training activities" means the activities in the family investment agreement/WoRC employability plan for all participants.

(18) "English as a second language (ESL)" means classroom training for persons with limited or no skills in English which provides them with sufficient command of the English language to compete in the labor market or to participate in training.

(19) "Equity value" means the market value of a resource minus the value of any enforceable mortgage, lien, encumbrance, or security interest.

(20) "Family investment agreement (FIA)/WoRC employability plan" means a written document designating the case management entity who will assist the family in working toward self-sufficiency.

(21) "Federal means-tested public benefit" means food stamp benefits funded by the U.S. department of agriculture pursuant to the Food Stamp Act of 1977 as amended, 7 USC 2026 et seq., cash assistance or any other benefits funded by the Temporary Assistance for Needy Families (TANF) block grant pursuant to Title IV of the Social Security Act, 42 USC 601 et seq., and medical assistance benefits funded by the medicaid program pursuant to Title XIX of the Social Security Act, 42 USC 1395 et seq.

(22) "Filing unit" includes:

(a) all individuals who are included in the child's assistance unit;

(b) all individuals who have the option of being included in the child's assistance unit, such as grandparents of the child, whether or not they choose to be included; and

(c) all persons, such as parents of the child, who would be required to be members of the child's assistance unit if they were not excluded from the assistance unit due for a reason such as lack of U.S. citizenship, receipt of SSI benefits, or the imposition of a sanction or disqualification.

(23) "General equivalency diploma (GED)" means a certificate provided to persons who pass standardized tests in place of a high school diploma.

(24) "Gross monthly income" means all earned and unearned income received except for excluded income as provided in ARM 37.78.415 and 37.78.416.

(25) "Group job search" means the provision of counseling, training, information, and peer support activities to employment and training participants in a group in order to give them guidance and support in obtaining employment.

(26) "Home" means the assistance unit's usual residence.

(27) "Incapacity" means a physical or mental defect, illness, or impairment diagnosed by a licensed physician or psychologist which is sufficiently serious as to eliminate or substantially reduce the parent's ability to obtain and retain employment for a period expected to last at least 30 days.

(28) "Indian country" means the land within the geographical boundaries of an Indian reservation.

(29) "Job development and placement" means creating or locating job openings and assisting employment and training participants in obtaining those positions.

(30) "Job search" means activities that include but are not limited to:

- (a) completing and submitting job applications;
- (b) completing resumes or master applications; and
- (c) career exploration, to investigate details/duties of a career path to determine true interest in a career. Examples include researching the dictionary of occupational titles, exploring the internet and interviewing with an employer or employee.

(31) "Job skills training directly related to employment" means training that may include but is not limited to:

- (a) activities designed to familiarize participants with work place expectations and help them develop appropriate work behavior;
- (b) classes that contribute to and prepare the participant for employment (e.g., skill specific classes, resume preparation and writing, interviewing skills and self-esteem); and
- (c) any post secondary education not considered vocational educational training.

(32) "Lump sum payment" means any nonrecurring payment of earned or unearned income, including but not limited to:

- (a) retroactive payments of social security disability or supplemental security income benefits or other benefits;
- (b) payments in the nature of a windfall, such as an inheritance or lottery winnings; and
- (c) insurance payments and personal injury and worker compensation awards, to the extent that the payment or award is not earmarked and used to compensate or reimburse the recipient for damages or expenses incurred due to an accident or injury, such as medical bills or replacement or repair of a resource.

(33) "Market value" means the price which a resource would bring if sold on the open market in the geographic area where the resource is located.

(34) "Medical support rights" means a child's legal entitlement to health insurance coverage and/or assistance with medical expenses from a parent with whom the child does not live.

(35) "Minor child" means a person under the age of 18 years, or older than 18 but less than 19 years if the person is a full-time student in a secondary school or an equivalent program who lives with a specified caretaker relative who meets the specifications set forth in ARM 37.78.207.

(36) "Non-financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b). Non-financial assistance is also the collective term used for post employment training and education payments, post employment service payments and work support payments.

(37) "On-the-job-training (OJT)" means training in the private or public sector given to an employment and training participant which occurs while the participant is engaged in productive work and provides knowledge or skills essential to the full and adequate performance of the job.

(38) "Participant" means a person who is eligible for and receiving TANF benefits.

(39) "Participation hours" means the number of hours which a TANF cash assistance participant must perform employment and training activities as specified in the participant's family investment agreement/WoRC employability plan.

(40) "Penalty period" means the period of time during which a participant is sanctioned.

(41) "Screening guide" means the tool by which the WoRC case manager in conjunction with the participant determines appropriate employment and training activities for the participant.

(42) "Single-parent household" means a household in which only one parent is included in the assistance unit.

(43) "Specified caretaker relative" means a person related to the minor child within the fifth degree of kinship by blood, marriage, or adoption who lives with the child.

(a) The caretaker relative must be the child's parent, grandparent, great grandparent, great-great grandparent, great-great-great grandparent, sibling, uncle, aunt, great uncle, great aunt, great-great uncle, great-great aunt, first cousin, first cousin once removed, nephew, niece, or step relative of the same degree of relationship; for example, stepparent, step grandparent, or step sibling, or half-brother or half-sister. The spouse of any person named in the immediately preceding sentence will be considered a caretaker relative, even after the marriage is terminated by death or divorce.

(44) "Stepparent" means an individual who is married to the minor child's parent by means of either a ceremonial or common law marriage.

(45) "Supportive services" means expenses and services necessary for a TANF cash assistance participant to participate in training or accept a job.



(46) "Temporary assistance for needy families (TANF)" means the collective term for all programs funded by the TANF grant. The term also is used to denote benefits provided in the form of financial assistance, non-financial assistance, child care payments, supportive services, or other services.

(47) "TANF cash assistance" is the term for the financial assistance program of TANF. The term also is used to denote supportive services provided to non-working families who also receive TANF cash assistance.

(48) "TANF extended benefits" is the term for cash assistance issued to a household under the 20% hardship extension as allowed at 45 CFR 264.1(c).

(49) "TANF grant" means the monthly cash payment to the assistance unit.

(50) "Teen parent" means an unmarried person under the age of 18 who cares for his or her minor child.

(51) "Teenage parent" means a teen parent.

(52) "Training activities" means jobs skills training, job readiness activities, and job development and placement.

(53) "Tribal native employment works (NEW)" means an employment and training program operated by a federally recognized tribe or Alaskan native organization.

(54) "20% hardship extension" means a household is eligible to receive federal TANF benefits beyond 60 months on the basis of a hardship according to rules defined by the state. This is allowed at 45 CFR 264.1(c).

(55) "Two-parent household" means a household in which two parents reside, regardless of whether the two parents are parents of the same minor child or two or more different children, except that a household in which two parents reside is considered a single-parent household for employment and training participation hours if one or both of the parents receives supplemental security income (SSI) benefits or is incapacitated. For purposes of this definition, a biological or adoptive parent or a stepparent is considered a parent.

(56) "Unearned income" means all income which is not earned income as defined in this rule. It includes, but is not limited to, social security benefits, supplemental security income payments, veteran's benefits or payments, workers' compensation and unemployment compensation benefits, interest payments, dividends, and distributions from trusts or estates.

(57) "Valid loan" means a lender delivers a sum of money to a borrower pursuant to a written or oral agreement that the borrower will repay the sum in the future. The obligation to repay must be absolute and not contingent on the occurrence of an uncertain event.

(58) "Vocational educational training" means the pursuit of a degree or certificate less than a bachelor degree.

(59) "WoRC employability plan" means a negotiated document listing employment and training activities, and mutual obligations of the WoRC program and the participant regarding the course of action leading to the individual's employment and the number of hours and the time limits within which such activities and obligations shall be performed.

(60) "Work activities" means all activities used to meet federal participation requirements at 45 CFR 261.30.

(61) "Work experience" means assessment, preparation, orientation and placement in a formal job site training experience.

(62) "Work readiness component (WoRC)" means the activities case management component of the TANF cash assistance program. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 952, Eff. 3/29/02; AMD, 2004 MAR p. 1482, Eff. 7/2/04.)

Rules 04 and 05 reserved

37.78.106 TANF: SAFEGUARDING AND SHARING INFORMATION

(1) Use of information concerning applicants for or participants in TANF is restricted to purposes directly connected with the administration of TANF and other federally assisted programs which provide assistance to individuals on the basis of need.

(2) The department may use or share confidential information concerning an applicant for or participant in TANF, without notice or permission of the person for the following purposes:

(a) administration of TANF or any of the other federal programs listed in (4);

(b) reporting of child abuse and neglect to an appropriate agency or authority or responding to a request for information from an appropriate agency or authority investigating child abuse or neglect;

(c) the conduct of child support activities;

(d) for other purposes authorized by law; or

(e) notification of an appropriate person, authority or other entity that an applicant or participant is making threats to harm himself or herself or to harm others, in order to prevent or lessen the threatened harm.

(3) Administration of a program includes the use of information by the program necessary for:

(a) establishing applicant eligibility;

(b) determining amount of assistance for recipient;

(c) providing services to recipient;

(d) conducting audits and similar activities; or

(e) any investigation, prosecution, or criminal or civil proceeding relating to the administration of the program.

(4) Other federal programs for which confidential applicant information may be used include the following:

(a) food stamps;

(b) medicaid;

(c) federally assisted unemployment compensation;

(d) federal old age assistance;

(e) federal aid to the blind;

(f) federal aid to the disabled;

(g) supplemental security income;

(h) social security;

(i) federally assisted child welfare services;

(j) federally assisted foster care;

(k) federally assisted adoption assistance;

(l) federally assisted weatherization;

(m) low income energy assistance;

- (n) social services block grant;
- (o) federally assisted work incentive;
- (p) federally assisted child care assistance; or
- (q) any other federal or federally assisted program providing assistance, in cash, in-kind or in services, directly to recipients on the basis of need.

(5) The department, without notice to or the permission of an applicant or participant, may release the current address of the person to a federal, state or local law enforcement officer, if the officer identifies the person and satisfactorily demonstrates:

- (a) that the person is:
  - (i) a fugitive felon;
  - (ii) violating a condition of probation or parole; or
  - (iii) has information necessary for the officer to conduct the officer's official duties; and
- (b) that locating and/or apprehending the person is within the official duties of the officer.

(6) The department, without prior permission of the applicant or participant, may within its discretion release confidential information necessary for the provision of emergency services to meet medical and other critical needs of the person. Notice of the release must be given as soon as possible to the person. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-105, 53-2-201, 53-2-211, 53-3-111 and 53-4-211, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03; AMD, 2004 MAR p. 1482, Eff. 7/2/04.)

## Subchapter 2

## TANF Cash Assistance: Eligibility

37.78.201 TANF CASH ASSISTANCE TIME LIMITS (1) A family is not eligible for TANF cash assistance if the family includes an adult who has received cash assistance in a program funded under the temporary assistance for needy families block grant in any state or states, including tribal programs, for 60 months or more, whether or not the months are consecutive, unless all adults in the filing unit qualify for TANF extended benefits. However, in calculating the number of months that an adult has received such assistance, the department shall not count any month when the person received assistance if during that month:

(a) the person was a minor child and was not the head of a household or married to the head of the household; or

(b) the person was an adult and lived within the exterior borders of an Indian reservation or an Alaskan native village where at least 50% of the adults were not employed.

(i) A person living within the exterior borders of an Indian reservation is considered to be living in Indian country. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211, 53-4-601 and 53-4-603, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 952, Eff. 3/29/02.)

37.78.202 TANF: CASH ASSISTANCE EXEMPTIONS TO TIME LIMITS (1) Benefits under the TANF cash assistance programs are time limited as provided in ARM 37.78.201.

(2) Households may be eligible for TANF cash assistance when an adult household member has received 60 months of TANF cash assistance if each adult household member is in compliance with the family investment agreement and each adult meets one of the following extension reason criteria:

(a) each adult household member is temporarily or permanently physically or mentally ill or physically or mentally incapacitated in a manner that prevents the household member from working;

(b) each adult household member is temporarily or permanently physically or mentally ill or physically or mentally incapacitated in a manner that prevents the household member from working as a result of domestic violence;

(c) each adult household member is required in the home full time as the primary caretaker of a person who is temporarily or permanently physically or mentally ill or physically or mentally incapacitated and no alternative care is available, and the person who needs care is either:

(i) a member of the filing unit; or

(ii) a person who would be a member of the filing unit if the person was eligible.

(d) The adult household member is presently attempting to resolve a current domestic violence situation.

(3) Each adult household member must submit an application for the extension of TANF cash assistance and all required proof showing the household members meets an extension criterion before an extension will be considered. An application for the extension of TANF cash assistance will not be considered complete if required proof is not attached. Required proof may include, but is not limited to: physician statements, medical records, police reports, professional assessments and psychological evaluations.

(4) All completed applications for the extension of TANF cash assistance will be evaluated by the eligibility case manager, the local director and a central committee made up of public assistance bureau administrative program staff or their designees. The central committee will make the final determination on whether an extension will be granted. (History: Sec. 53-2-201, 53-4-211 and 53-4-212, MCA; IMP, Sec. 53-4-211, 53-4-212, 53-4-231, 53-4-601 and 53-4-607, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 952, Eff. 3/29/02.)

Rules 03 through 05 reserved

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37.78.206 TANF: GENERAL ELIGIBILITY REQUIREMENTS

(1) Except as provided in (2)(e), an application for TANF cash assistance must be made on behalf of a minor child.

(2) Subject to the restrictions set forth in ARM 37.78.220 and in (3) of this rule, TANF cash assistance may be granted to the following classes of persons if they meet all other eligibility requirements:

(a) minor children as defined in ARM 37.78.103;

(b) specified caretaker relatives, as defined in ARM 37.78.103;

(c) stepparents of minor children who live with the child and with the child's natural or adoptive parent;

(d) minor children as defined in ARM 37.78.103 who live in the home of a minor child and who are the child's siblings by blood, marriage, or adoption, including half brothers and half sisters and stepsiblings;

(e) pregnant women who have no other eligible children living with them, provided that they shall be eligible for cash assistance payments beginning the third month prior to the month in which the child is expected to be born.

(3) The following are not eligible for TANF cash assistance:

(a) persons receiving supplemental security income (SSI) benefits under Title XVI of the federal Social Security Act;

(b) all members of the specified caretaker relative's filing unit when a specified caretaker relative fails or refuses without good cause to comply with the requirements of ARM 37.78.215 regarding the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

(c) a specified caretaker relative who fails to report the absence of a child, lasting more than 90 consecutive days as specified in ARM 37.78.207 by the end of the five-day period which begins with the date on which it becomes clear to the caretaker relative that the child will be absent for more than 90 consecutive days;

(d) teenage parents who are not living with their parent or parents, legal guardian, or other adult relative who would qualify to be a guardian of a minor child under Title 72, chapter 5, MCA, unless the teenage parent has been authorized to live in an alternative setting by the local office of public assistance living arrangement review committee because:

(i) the teenage parent has no parent, legal guardian, or other adult relative who would qualify to serve as a guardian who will allow the teenage parent to live in their home; or

(ii) the teenage parent is living independently because:

(A) physical, verbal, or emotional abuse or domestic violence exists in the home of any adult relative or guardian with whom the teenage parent could otherwise live;

(B) alcohol or drug abuse exists in the home of any adult relative or guardian with whom the teenage parent could otherwise live;

(C) any adult relatives with whom the teenage parent could otherwise live do not live in Montana;

(D) any adult relative with whom the teenage parent could otherwise live is mentally ill; or

(E) it would be dangerous to the teenage parent's physical or emotional well being for any other reason to live with any adult relatives with whom the teenage parent could otherwise live.

(e) persons who are in violation of a condition of the individual's probation or parole imposed under state or federal law and persons fleeing to avoid being prosecuted for a felony or fleeing to avoid custody or confinement after conviction of a felony;

(i) a person is an ineligible fleeing felon if the crime involved is a felony in the jurisdiction where the crime occurred.

(f) persons who have intentionally misrepresented their place of residence in order to obtain TANF, medicaid, or food stamps in two or more states simultaneously are ineligible for a period of 10 years;



(g) an individual who was convicted after August 22, 1996, of any offense which is classified as a felony in the jurisdiction where the offense occurred and which has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the federal Controlled Substance Act, 21 USC 802(6);

(h) members of a family which includes an adult who has received assistance for 60 months or more, as prescribed in ARM 37.78.201;

(i) all members of the assistance unit which includes a specified caretaker relative who fails or refuses to comply with third party liability;

(j) all members of the assistance unit which includes a specified caretaker relative or minor child who fails or refuses to comply without good cause with eligibility requirements including providing information and verification needed to determine eligibility;

(i) refusal may occur verbally, in writing, or by not responding in any manner;

(k) all members of the assistance unit which includes a specified caretaker relative or minor child who fails or refuses without good cause to negotiate and sign a family investment agreement; or

(l) all members of the assistance unit if any member of the assistance unit who is required by ARM 37.78.806 to participate in employment and training fails or refuses without good cause to negotiate and sign a WoRC employability plan.

(4) An application for non-financial assistance must be made on behalf of a child under the age of 18.

(5) Subject to the restrictions set forth in (6), non-financial assistance may be granted to the following classes of persons if they meet all other eligibility requirements for non-financial assistance:

(a) children under the age of 18 for whom application is made;

(b) specified caretaker relatives, as defined in ARM 37.78.103, of children described in (5)(a);

(c) stepparents of children under the age of 18 who live with the child for whom application is made and with the child's natural or adoptive parent;

(d) siblings, by blood, marriage, or adoption, who are under the age of 18, half brothers and half sisters and stepsiblings of a child, in (5)(a).

(6) The following are not eligible for non-financial assistance:

(a) all members of the assistance unit which includes a specified caretaker relative or minor child who fails or refuses to comply, without good cause, with eligibility requirements including providing information and verification needed to determine eligibility;

(i) refusal may occur verbally, in writing, or by not responding in any manner. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211 and 53-4-231, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 1771, Eff. 6/28/02; AMD, 2004 MAR p. 1482, Eff. 7/2/04.)

37.78.207 TANF: LIVING WITH A SPECIFIED RELATIVE (1) To be eligible for TANF cash assistance a child for whom application is made must be living with an adult related to the child by blood, marriage, or adoption who is within the fifth degree of kinship to the child as set forth in ARM 37.78.103. The child and adult relative must live together in a place of residence maintained as their home.

(a) A child who is visiting a non-custodial parent or is living with a parent who has joint custody but with whom the child resides less than one-half the time is not considered to be living with that parent for purposes of this rule.

(b) If a child spends equal amounts of time with both parents, both parents must be included in the child's assistance unit.

(2) A child may still be considered to be living with a specified relative even though either the child or the caretaker relative is temporarily absent from the home, providing that the temporary absence does not exceed 90 consecutive days and subject to the following conditions:

(a) It must be intended that the absent child or caretaker relative return to the home within 90 days.

(b) The caretaker relative must continue to exercise responsibility for the care of the child despite the temporary absence and must plan to exercise such responsibility over the child when the reason for the absence ends.

(c) The needs of the child or the caretaker relative are included in determining the assistance unit's eligibility for and amount of cash assistance during the temporary absence.

(3) If the child or caretaker relative is temporarily absent from the home to receive medical treatment, the child is still considered to be living with a specified care-taker relative even if the absence exceeds 90 days, and without regard to the conditions set forth in (2)(a) and (b), provided the parent or caretaker relative is otherwise eligible.

(4) If the specified caretaker relative is temporarily absent from the home to complete a specific short-term training or employment, the child is still considered to be living with a specified caretaker relative even if the absence exceeds 90 days, provided the parent or specified caretaker relative continues to be otherwise eligible.

(5) If the child is attending a boarding school and is expected to return to the home of the specified caretaker relative at the end of the school term, the child is still considered to be living with the specified caretaker relative while away at school.

(6) To be eligible for non-financial assistance a child for whom application is made must be living with an adult related to the child by blood, marriage, or adoption who is within the fifth degree of kinship to the child as set forth in ARM 37.78.103. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 264, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 1771, Eff. 6/28/02.)

37.78.208 TANF: INCLUSION IN ASSISTANCE UNIT (1) Except as provided in (5), the child for whom application is made must be included in the assistance unit. The child's income and resources will be counted in determining eligibility and benefit amount and the child's needs will be included in the grant.

(2) Except as provided in (5), any minor child, as defined at ARM 37.78.103, who is related to the child described in (1) within the second degree of kinship or is a step relative within the same degree of kinship and who lives with the child and meets all other non-financial requirements for eligibility, including citizenship, must be included in the assistance unit. The minor child's income and resources will be counted in determining eligibility and benefit amount and the minor child's needs will be included in the grant.

(3) Except as provided in (5), the parent or parents of a minor child described in (1) or (2) who live with the child and meet all other non-financial requirements for eligibility, including citizenship, must be included in the assistance unit, regardless of whether the parents are married to each other. The parent's or parents' income and resources will be counted in determining eligibility and benefit amount and the parent's or parents' needs will be included in the grant.

(4) Except as provided in (5), the stepparent of a minor child described in (1) or (2) who lives with the child and the child's natural or adoptive parent must be included in the assistance unit if the stepparent meets all other nonfinancial requirements for eligibility including citizenship. The stepparent's income and resources will be counted in determining eligibility and benefit amount and the stepparent's needs will be included in the grant.

(a) A person who is married to the child's parent by means of either a ceremonial or common law marriage is a stepparent.

(5) The needs, income and resources of persons receiving supplemental security income (SSI) payments under Title XVI of the Federal Social Security Act shall not be included in determining the need and amount of the assistance payment of TANF cash assistance for the period for which SSI benefits are received. The needs, income and resources of persons with respect to whom federal, state or local foster care payments are made shall not be included in determining need and amount of the assistance payment.

(6) New household members required to be included in the assistance unit will be added the month after the month in which the new member entered the household or is reported to be living in the household, whichever occurs later.

(7) For purposes of TANF non-financial assistance, all persons who are included in the filing unit are included in the assistance unit. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201, 53-2-613, 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 1771, Eff. 6/28/02.)

Rules 09 through 14 reserved

37.78.215 TANF: TANF CASH ASSISTANCE; CHILD SUPPORT ENFORCEMENT COOPERATION REQUIREMENTS (1) Except as provided in (2), in every TANF cash assistance case where one or both of the minor child's parents is absent from the home, the specified caretaker relative must:

(a) assign child and medical support rights, as defined in ARM 37.78.103, to the department; and

(b) cooperate in establishing paternity and obtaining child or medical support, or both, subject to the exception for good cause provided in (3)(a) through (f).

(2) In cases where there is only one adoptive parent or where the parental rights of the child's parents have been terminated by a court of competent jurisdiction, the applicant or recipient is not required to assign child or medical support rights or cooperate in establishing paternity or obtaining child support.

(3) The requirement of cooperation in establishing paternity and obtaining child support may be waived if good cause is shown. For purposes of this rule, good cause exists if one of the following circumstances exists, and as a result of that circumstance cooperation would be detrimental to the child:

(a) cooperation is likely to result in substantial danger, physical harm, undue harassment or severe mental anguish to the child or the caretaker relative;

(b) the child was conceived as a result of forcible rape or an incestuous relationship;

(c) the caretaker relative has relinquished the child to a public or licensed social agency for the purpose of adoption;

(d) legal proceedings for the adoption of the child are pending before a court of competent jurisdiction;

(e) the parental rights to the child have been terminated by a court of competent jurisdiction; or

(f) any other situation which makes cooperation with child support requirements detrimental to the child.

(4) A specified caretaker relative who claims to have good cause for refusing to cooperate must:

(a) provide evidence to substantiate the claim; or

(b) provide sufficient information to permit an investigation to determine whether good cause exists.

(5) Assistance will not be denied, delayed, or discontinued pending a determination of good cause for refusal to cooperate if the specified caretaker relative has complied with the requirements of (4). However, if it is ultimately determined that good cause does not exist and the recipient continues to refuse to cooperate, the department may recover amounts paid pending the determination of good cause.

(6) In cases where good cause has been found, a review must be held at each redetermination of eligibility to determine whether there has been any change in circumstances such that good cause no longer exists.

(7) The local office of public assistance will promptly notify the child support enforcement division of all cases in which it has been determined that there is good cause for refusal to cooperate in establishing paternity or obtaining child or medical support.

(8) A pregnant woman is required before the birth of her child to provide information about the father of her unborn child for the purpose of establishing paternity and obtaining child and medical support after the child's birth.

(9) When a parent or parents fail or refuse without good cause to assign child or medical support rights or to cooperate in establishing paternity or obtaining child or medical support, all household members will be ineligible for assistance. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.216 TANF: TANF CASH ASSISTANCE FIA/WORK EMPLOYABILITY PLAN (1) The FIA/Work employability plan is a negotiated document listing eligibility requirements, employment and training activities, and mutual obligations of the state and the participant regarding the course of action leading to the individual's employment and the number of hours and the time limits within which such activities and obligations shall be performed.

(a) All participants in the TANF cash assistance programs are required to negotiate and comply with their FIA/Work employability plan as a condition of eligibility in the TANF cash assistance program. A participant who is exempt from time limits as specified in ARM 37.78.202 must enter into a FIA/Work employability plan. The FIA/Work employability plan activities for a participant who is eligible for TANF extended benefits will take into consideration any limitations which are the basis for the extension.

(b) The FIA/Work employability plan will be reviewed at least once every 12 months by the eligibility case manager and at least monthly by the Work case manager. They may also be renegotiated as needed or at the request of either the participant, the eligibility case manager, or the Work case manager.

(c) Once the FIA/Work employability plan is completed, it is signed by the participant, the eligibility case manager and the Work case manager. The participant receives a signed copy.

(d) Failure to perform the activities required in the FIA/Work employability plan on a timely basis will result in sanctions in accordance with ARM 37.78.506.

(2) Because entering into a FIA/Work employability plan is a condition of eligibility for TANF cash assistance, failure or refusal without good cause to enter into a FIA/Work employability plan initially or to renegotiate and/or sign a new FIA/Work employability plan when requested will result in the denial of or termination of assistance for the entire assistance unit. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211, 53-4-601, 53-4-606 and 53-4-608, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 952, Eff. 3/29/02; AMD, 2004 MAR p. 1482, Eff. 7/2/04.)

Rules 17 through 19 reserved

37.78.220 TANF: ELIGIBILITY, CITIZENSHIP REQUIREMENTS

(1) Except as provided by this rule, only U.S. citizens and qualified aliens are eligible for TANF cash assistance.

(2) A qualified alien is a noncitizen who:

(a) was admitted to the U.S. as a refugee under section 207 of the Immigration and Nationality Act (INA) for only seven years from the date of entry;

(b) was granted asylum under section 208 of the INA for only seven years from the date of entry;

(c) has had deportation withheld under section 243(h) of the INA for only seven years from the date of entry; or

(d) was granted parole for at least one year under section 21(d) (5) of the INA;

(e) was granted conditional entry under immigration law in effect before April 1, 1980;

(f) is a Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980, if entry occurred within the last seven years, including:

(i) any alien granted parole status as a Cuban/Haitian entrant; or

(ii) any alien granted any other special status for nationals of Cuba or Haiti; or

(iii) any alien who is a national of Cuba or Haiti and who:

(A) was paroled into the U.S., but has not acquired any other status; or

(B) is the subject of removal proceedings or has an application for asylum pending; and

(C) does not have a final order for removal entered;

(g) is an Amerasian immigrant who was admitted to the U.S. pursuant to section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988, if admitted within the last seven years, including any alien lawfully admitted for permanent residence if the alien was a resident of Vietnam on December 22, 1987 and if the alien was born in Vietnam after January 1, 1962 and before January 1, 1976; and

(i) was fathered by a U.S. citizen; or

(ii) is the spouse, child, natural mother, or who acted as the mother, father or next of kin to the alien described in (2)(g)(i), if accompanying or following the alien described in (2)(g)(i) to the U.S. and if admission is necessary to maintain family unity;



(h) is an American Indian born in Canada if at least 50% American Indian blood and considered lawfully admitted for permanent residence;

(i) is a member of a federally recognized Indian tribe under the Indian Self Determination and Education Assistance Act and considered lawfully admitted for permanent residence;

(j) is a battered spouse or child or a person who has been subjected to extreme cruelty in the U.S. pursuant to the requirements of 8 USC 1641(c), if:

(i) the applicant verifies that battery or extreme cruelty was inflicted on the applicant, applicant's child or the child applicant's parent by providing proof that a case was established by INS; and

(ii) there is a substantial connection between the abuse and the applicant's need for benefits; and

(iii) the applicant does not reside with the abuser;

(k) is lawfully admitted to the U.S. for permanent residence and:

(i) the alien entered the U.S. as a refugee within the last seven years and the alien's status has changed to "lawfully admitted for permanent residence"; or

(ii) the alien was granted asylum within the last seven years and the asylee's status has changed to "lawfully admitted for permanent residence"; or

(iii) the alien had deportation withheld under section 243(h) of the INA within the last seven years and the alien's status has changed to "lawfully admitted for permanent residence"; or

(iv) the alien was admitted as a Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980 within the last seven years and the alien's status has changed to "lawfully admitted for permanent residence"; or

(v) the alien was admitted as an Amerasian immigrant under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988 within the last seven years and the alien's status has changed to "lawfully admitted for permanent residence"; or

(vi) the alien entered the U.S. before August 22, 1996 and can be credited with 40 qualifying quarters of work, cumulated as defined in (4) and (5); or

(vii) the alien entered the U.S. on or after August 22, 1996 and has resided in the U.S. for five years and can be credited with 40 qualifying quarters of work, cumulated as defined in (4) and (5);

(l) is a veteran of the U.S. armed forces and who received an honorable discharge not because of alienage;

(m) is a Hmong or other Highland Lao veteran who fought on behalf of the U.S. armed forces during the Vietnam conflict;

(n) is on active duty in the U.S. army, navy, air force, marine corps or coast guard and who is not on active duty for training purposes;

(o) is the spouse of an alien veteran or an alien on active duty as described in (2)(l) through (n);

(p) is the unmarried child of an alien veteran or alien on active duty as described in (2)(l) through (n); or

(q) is a victim of a severe form of trafficking as determined by the U.S. department of health and human services for only seven years from the date of entry.

(3) Qualified aliens entering the U.S. on or after August 22, 1996 are not eligible for TANF cash assistance benefits for a period of five years from the date of entry unless they are:

(a) refugees;

(b) asylees;

(c) aliens whose deportation was withheld under section 243(h) of the INA;

(d) honorably discharged veterans or aliens on active duty in the U.S. armed forces, or the spouse and/or unmarried child of honorably discharged veterans or aliens on active duty;

(e) American Indians with at least 50% American Indian blood who were born in Canada;

(f) Cuban/Haitian entrants as defined in section 501(e) of the Refugee Assistance Act of 1980;

(g) Amerasian immigrants admitted to the U.S. pursuant to section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988;

(h) enrolled members of a federally-recognized Indian tribe under section 4(e) of the Indian Self Determination and Education Assistance Act; or

(i) a victim of a severe form of trafficking as determined by the U.S. department of health and human services.

(4) If the alien entered the U.S. before August 22, 1996 or five years have passed since the alien entered the U.S., the work quarter requirement may be met, subject to (5), by cumulating quarters worked by:

(a) the alien;

(b) the alien's living parents (including stepparents) if the quarters were earned while the alien was under age 18;

(c) the alien's deceased parents (including stepparents) if the quarters were earned while the alien was under age 18; or

(d) the alien's spouse if the quarters were earned during the marriage and if the alien is still married to that spouse or if the spouse is deceased.

(5) No work quarters may be credited for any period after December 31, 1996 if any of the persons listed in (4) (a) through (d) received any federal means-tested benefits during the period the work quarters were earned.

(6) An alien who meets all financial and non-financial eligibility criteria is eligible to receive TANF cash assistance benefits only for a period of seven years from the date INS designates the alien as one of the following and if the alien was:

(a) admitted to the U.S. as a refugee under section 207 of the INA; or

(b) granted asylum under section 208 of the INA; or

(c) withheld from deportation under section 243(h) of the INA; or

(d) admitted as a Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or

(e) admitted as an Amerasian immigrant under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988.

(7) A person must be a U.S. citizen to be eligible for non-financial assistance. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211 and 53-4-231, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.221 TANF: RESIDENCY (1) There is no durational residency requirement for TANF. Any resident of Montana who meets all other eligibility requirements may receive TANF. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201 and 53-4-211, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.222 TANF: TANF CASH ASSISTANCE; DENIAL OF BENEFITS TO STRIKERS (1) Participation in a strike does not constitute good cause to leave, or to refuse to seek or accept, employment.

(2) TANF cash assistance benefits will be denied to any family for any month in which any caretaker relative with whom the dependent child is living is, on the last day of the month, participating in a strike.

(3) No individual's needs will be included in determining the amount of benefit payable for any month to a family if, on the last day of such month, the individual is participating in a strike.

(4) A strike is defined as a temporary concerted stoppage of work by a group of employees (not necessarily members of a union) to express a grievance, enforce a demand for changes in the conditions of employment, obtain recognition, or resolve a dispute with management. Also included in this definition is a work stoppage by reason of the expiration of a collective bargaining agreement. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201 and 53-4-211, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Rules 23 through 25 reserved

37.78.226 TANF: TANF CASH ASSISTANCE; PLACE OF APPLICATION (1) Applications for TANF cash assistance may be made in any office of public assistance in Montana on behalf of a minor child. When conditions preclude a person from visiting the office of public assistance to make application, he shall have an opportunity to make application at a mutually agreed place, through a home visit by the worker or by mail. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211 and 53-4-233, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.227 TANF: INVESTIGATION OF ELIGIBILITY

(1) Investigations of eligibility will include securing information from the person applying for or receiving assistance and such other investigation as may be determined necessary by the department.

(2) If a case is selected for program compliance review for any program, the client must cooperate. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211 and 53-4-233, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.228 TANF: TANF CASH ASSISTANCE; INITIAL PAYMENT AND REDETERMINATION OF ELIGIBILITY (1) The initial assistance payment will be issued in a prorated amount which includes the day upon which application was made and the remaining days of that month.

(2) Periodic investigations will be made of all TANF participants to determine whether continuing eligibility to receive assistance exists, at least once every 12 months, but may be made at any time if circumstances require. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201 and 53-4-211, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Subchapter 3 reserved

Subchapter 4

TANF Cash Assistance: Resources

37.78.401 TANF: TANF CASH ASSISTANCE; RESOURCES

(1) This rule governs the treatment of resources for purposes of all benefits in the TANF cash assistance program.

(2) In determining eligibility for TANF cash assistance, the department will count the equity value as defined in ARM 37.78.103 of all resources available to any member of the filing unit, unless there is a specific provision for the exclusion of the resource elsewhere in this rule or in federal law. A resource is considered available if actually available or when the applicant or participant has a legal interest in the resource and the legal ability to make it available for support and maintenance. In the case of qualified aliens, as defined in ARM 37.78.220, the income and resources of the alien's sponsor and the alien's sponsor's spouse must be considered in determining the eligibility of the alien. A sponsor is any person over the age of 18 who petitions for admission of an alien under section 213 of the Immigration and Nationality Act.

(3) If the total value of the filing unit's countable resources exceeds \$3,000, the filing unit is ineligible for assistance. Eligibility is determined on the basis of the countable resources as of the date of application and the first moment of the first day of each month for which ongoing assistance is being determined. If the filing unit's countable resources exceed the \$3,000 resource limit on the first day of the month, the filing unit is ineligible for that entire month, even if the value of the filing unit's countable resources drops below \$3,000 later in the month.

(4) The following resources are not counted in determining eligibility:

(a) the filing unit's home, which is the usual residence of the filing/assistance unit, regardless of its value;

(b) household goods, clothing, or other essential personal effects, equipment, or other essential day to day items of limited value;

(c) tools, equipment and other assets essential for the self-employment of a member of the filing unit;

(d) one burial space for each member of the filing unit and not more than \$1,500 designated under a funeral agreement for burial arrangements for each member or irrevocable burial accounts or agreements;

(e) agent orange settlement payments;

(f) radiation exposure compensation payments;

(g) vehicles as follows:

(i) one vehicle regardless of its value; however, the equity in any additional vehicles must be counted as a currently available resource; and

(ii) all income-producing vehicles;

(h) Maine Indian Claims Settlement Act of 1980 payments;

(i) the cash value of life insurance policies;

(j) restitution made to individuals of Japanese ancestry who were interned during World War II as per the Civil Liberties Act of 1988;

(k) restitution made to Aleuts who were relocated during World War II as per the Civil Liberties Act of 1988;

(l) major disaster and emergency assistance as per the Disaster Relief and Emergency Assistance Amendments of 1988;

(m) student financial assistance for post-secondary education made for attendance costs under Title IV of the Higher Education Act or bureau of Indian affairs student assistance programs as per the Higher Education Technical Amendment Act of 1987. The exclusion lasts only as long as the recipient of assistance is continuously attending an institution of higher education, excluding regular school breaks such as semester breaks or summer vacations;

(n) earned income tax credit (EITC) advance payments and refunds;



(o) trust fund or similar legal document which cannot be accessed by the grantor, beneficiary or trustee for the purpose of providing for the health, welfare, maintenance or daily needs of the beneficiary;

(p) annuities from which payments are being made;

(q) funds which have been prorated as income, during the period for which they have been prorated;

(r) governmental disaster payments designated for restoration of a home damaged in a disaster if the household is subject to legal sanction if funds are not used as intended; or

(s) funds which are held in an escrow account during the household's participation in a department of housing and urban development family self-sufficiency program.

(5) The exclusions in (4) do not apply when members of the filing unit no longer have a personal ownership interest in the resource.

(6) If an individual would be required by ARM 37.78.208 to be included in the assistance unit except that the individual is not eligible because they are not a U.S. citizen or qualified alien, or they are a parole probation violator, fleeing felon, a person who has committed an intentional program violation, or a convicted drug felon as stated in ARM 37.78.206(3)(f) through (h) and 37.78.505, the resources of that individual will be counted in determining the assistance unit's eligibility and grant amount even though the individual's needs are not included in the grant.

(7) State and federal income tax refunds are a countable resource in the month received. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211, 53-4-601 and 53-4-606, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.402 TANF: TREATMENT OF INCOME (1) This rule governs the treatment of income for purposes of the TANF program.

(2) All available income of any member of the filing unit is counted in determining eligibility and benefit amount for TANF cash assistance, unless a specific provision elsewhere in this chapter provides that the income will be excluded, disregarded, or otherwise not counted. Income is considered available both when actually available and when the applicant or participant has a legal interest in it and the legal ability to make the income available for support and maintenance.

(3) Eligibility and grant amount for TANF cash assistance is determined for each benefit month. The assistance unit's future eligibility with regard to income and grant amount is determined by prospectively evaluating the income expected to be received by members of the filing unit in the month of application and future months. The department estimates total income to be received by the filing unit in the future based on their current circumstances and available information about changes in their circumstances reasonably anticipated to occur in the future.

(4) Income averaging may be used to determine monthly income if:

(a) income is paid during one month but is intended to cover a period of time which is greater than one month. The monthly amount would be computed by dividing the payment amount by the number of months the payment is intended to cover. An example would be an employee who receives a paycheck during only nine months of the year but whose salary is considered to be for a 12 month period; or

(b) income fluctuates significantly from month to month. An example would be an employee paid an hourly wage rather than a set salary whose hours of work vary from month to month.

(5) In the case of earned income from self-employment, allowable business expenses are subtracted from gross receipts to arrive at gross income.

(a) Business expenses means costs directly related to the production of goods or the furnishing of services and without which the goods could not be produced or the services furnished. Allowable business expenses include the costs of materials, labor, tools, rental equipment, supplies, and utilities.

(b) Allowable business expenses do not include depreciation, entertainment expenses, personal work related expenses such as clothing or transportation to the site of employment, purchase of capital equipment, or payments on principal of loans for capital assets or durable goods.

(6) Income tax refunds are not treated as income but are considered a countable resource in the month received.

(7) If an individual would be required by ARM 37.78.208 to be included in the assistance unit except that the individual is not eligible because they are not a U.S. citizen or qualified alien, or they are a parole probation violator, fleeing felon, a person who has committed an intentional program violation or a convicted drug felon as stated in ARM 37.78.206(3)(f) through (h) and 37.78.505, the income of that individual will be counted in determining the assistance unit's eligibility and grant amount even though the individual's needs are not included in the grant.

(8) All earned income of the adults included in the filing unit is counted in determining eligibility for TANF non-financial assistance.

(9) Eligibility for TANF non-financial assistance is determined by evaluating the earned income expected to be received by the adults included in the filing unit in the month of application. The department estimates the total income to be received by the filing unit based on their current circumstances.

(10) In the case of earned income from self-employment, allowable business expenses are subtracted from gross receipts to arrive at gross income.

(a) Business expenses means costs directly related to the production of goods or the furnishing of services and without which the goods could not be produced or the services furnished. Allowable business expenses include the costs of materials, labor, tools, rental equipment, supplies and utilities.

(b) Allowable business expenses do not include depreciation, entertainment expenses, personal work related expenses such as clothing or transportation to the site of employment, purchase of capital equipment, or payments on principal of loans for capital equipment, or payments on principal of loans for capital assets or durable goods. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Rules 03 through 05 reserved

37.78.406 TANF: TANF CASH ASSISTANCE; INCOME DISREGARDS AND INCOME DEEMING (1) This rule governs income disregards and deeming for purposes of TANF cash assistance.

(2) When testing countable monthly income and determining the amount of the assistance payment, the following amounts are subtracted in the order listed from the earned income of each wage earner in the assistance unit after exclusions provided in ARM 37.78.416:

(a) \$200 of monthly earnings for each wage earner, except in the case of individuals whose income is deemed as described in (3);

(b) 25% of the remaining earned income after the disregards in (2)(a) have been applied;

(c) the cost of care for each working member's minor child or incapacitated adult for hours when the member is working or in employment and training activities, not to exceed \$200 per month per child or incapacitated adult, but only if the minor child or incapacitated adult lives in the same household and is either a member of the assistance unit or would be a member of the assistance unit except for the fact that the minor child or incapacitated adult is receiving supplemental security income benefits.

(i) The cost of care incurred for the minor child or incapacitated adult in the budget month will be deducted. The amount deducted shall not include amounts incurred in months other than the budget month or amounts previously used to determine eligibility and benefit amount.

(3) The amount of any child support payments paid under court order by any member of the assistance unit to any individual not living in the household is subtracted from the income of the household, whether earned or unearned or both.

(4) Subject to the disregards in (5)(a) through (d), income of the following individuals must be deemed when determining eligibility:

(a) for qualified aliens, the income of the alien's sponsor;

(b) for a pregnant woman the income of her spouse or of the father of her unborn child if the father resides with her; and

(c) for a caretaker relative whose needs are included in the assistance unit's grant and who is not the natural or adoptive parent of the dependent child, the income of the caretaker relative's spouse.

(5) The following amounts shall be subtracted from the income of the individuals specified in (4)(a) through (c) whose income is deemed:

(a) a \$90 standard work expense;

(b) an amount of income equal to the net monthly income standard for a family consisting of the individual and the individual's natural or adopted children, if such children are claimed as dependents for federal income tax purposes and are living in the same household as the individual, but are not included in the TANF cash assistance unit;

(c) actual verified amounts paid by the individual to others not living in the household who are claimed by the individual as dependents for federal income tax purposes; and

(d) actual verified amounts of child support paid by the individual to other persons not living in the household.

(6) Income of the individuals specified in (4)(a) through (c), less the disregards specified in (5)(a) through (d), must be counted as unearned income to the assistance unit whether or not such income is actually contributed to any member of the assistance unit. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03; AMD, 2003 MAR p. 1301, Eff. 7/1/03.)

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37.78.407 TANF: TANF CASH ASSISTANCE; LIMITS ON DISREGARDS (1) The income disregards in ARM 37.78.406 are applicable without limit on the number of months they can be applied. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Rules 08 through 14 reserved

37.78.415 TANF: TANF CASH ASSISTANCE; EXCLUDED EARNED INCOME (1) This rule governs excluded earned income for purposes of TANF cash assistance.

(2) In testing gross monthly income and in determining the monthly grant, the following earned income is to be excluded:

(a) the earned income of a minor child as defined in ARM 37.78.103 who is attending elementary or high school;

(b) earned income tax credit (EITC) advance payments and refunds;

(c) payments to individuals in the volunteers in service to America program (VISTA) pursuant to Title I of P.L. 93-113, section 404(g);

(d) all Workforce Investment Act (WIA) work experience income; and

(e) all work-study earnings or payments received by a post-secondary student, regardless of the payment source.

(History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.416 TANF: TANF CASH ASSISTANCE; EXCLUDED UNEARNED INCOME (1) This rule governs excluded unearned income for purposes of TANF cash assistance.

(2) In testing gross monthly income and in determining grant amount, the following unearned income shall be excluded:

(a) gifts of money up to \$50 per gift per month for each participant;

(b) energy assistance payments based on financial need;

(c) restitution made to individuals of Japanese ancestry who were interned during World War II as per the Civil Liberties Act of 1988;

(d) restitution made to Aleuts who were relocated during World War II as per the Civil Liberties Act of 1988;

(e) major disaster and emergency assistance as per the federal Disaster Relief and Emergency Assistance Amendments of 1988;

(f) the following income of enrolled tribal members:

(i) judgment claims payments;

(ii) judgments derived from submarginal lands;

(iii) per capita payments not to exceed \$2,000 per individual per payment;

(iv) interest earned on excluded funds; and

(v) up to \$2,000 per year of income derived from leases or other uses of individually owned trust or restricted lands.

(g) complementary assistance from other agencies or organizations which provides or pays for goods or services not intended to be covered by TANF cash assistance;

(i) The cash assistance grant is intended to provide assistance for food, household supplies, personal care items, clothing, and shelter, including heating costs.

(h) undergraduate grants, loans, or scholarships for purposes directly related to the individual's attendance at an institution of higher education or postsecondary training;

(i) veterans administration educational payments are totally excluded if the recipient of the payment is attending an institution of higher education or postsecondary training;

(j) the value of a food stamp allotment or food commodities donated by the U.S. department of agriculture;

(k) any benefits received under Title VII of the Nutrition Program for the Elderly of the Older Americans Act of 1965 as amended;

(l) the value of supplemental food assistance received under the Child Nutrition Act of 1966 and under the National School Lunch Act, P.L. 92-433 and 93-150;



(m) payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(n) vendor payments or other financial assistance provided to the assistance unit by persons not included in the assistance unit where no income is contributed directly to members of the assistance unit;

(o) interest paid on escrow accounts established under the HUD Family Self-Sufficiency (FSS) Program;

(p) payments made under the Maine Indian Claims Settlement Act of 1980;

(q) radiation exposure claims payments;

(r) payments received under the Alaska Native Claims Settlement Act, P.L. 92-203;

(s) payments received under the volunteers in service to America program (VISTA) pursuant to Title I of P.L. 93-113, section 404(g);

(t) reimbursement made to a member of the assistance unit, including repayment of monies spent;

(u) supportive services payments to or for an assistance unit who is participating in WoRC, or any other TANF cash employment and training program;

(v) supplemental security income (SSI) payments received by a person who lives with the assistance unit, except that any portion of the SSI payment which is directly contributed to the assistance unit is not excluded;

(w) HUD Section 8 utility payments, regardless of whether the payee is a member of the assistance unit or someone else is the payee;

(x) money received pursuant to a valid loan as defined in ARM 37.78.103; and

(y) emergency assistance payments provided under ARM 37.78.601 and 37.78.602. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Rules 17 through 19 reserved

37.78.420 TANF: ASSISTANCE STANDARDS; TABLES; METHODS OF COMPUTING AMOUNT OF MONTHLY BENEFIT PAYMENT (1) Income standards as set forth in this rule are used to determine whether need exists with respect to income for any person who applies for or receives TANF cash assistance and to determine the benefit amount the assistance unit will receive if eligible. Three sets of assistance standards are used which are as follows:

(a) The gross monthly income (GMI) standard sets the level of gross monthly income for each size assistance unit which cannot be exceeded if the assistance unit is to be eligible for TANF cash assistance.

(b) The net monthly income (NMI) standard is used to determine the GMI.

(c) The benefit standard sets the level of net countable income which cannot be exceeded if the assistance unit is to be eligible for assistance. It is also used to determine the amount of the monthly cash payment in the TANF cash assistance program and is based on the size of the assistance unit. This amount is prorated for the month of application if eligibility is for less than a full month.

(2) The income standards vary depending on the number of persons in the assistance unit.

(3) The assistance unit's GMI as defined in ARM 37.78.103 is compared to the applicable GMI standard, and after specified disregards, to the benefit standard. If the assistance unit's GMI exceeds the GMI standard or their countable monthly income as defined in ARM 37.78.103 exceeds the benefit standard, the assistance unit is ineligible for assistance. Monthly income is compared to the full standard even if the eligibility is being determined for only part of the month.

(a) Eligibility for assistance and the amount of the monthly benefit payment which a TANF cash assistance unit will receive is determined prospectively, that is, based on the department's best estimate of income and other circumstances which will exist in the benefit month.

(b) When comparing income to the income standards, income anticipated to be received in the benefit month is used.

(4) The GMI standards, NMI standards and benefits standards are as follows:

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(a) Gross monthly income standards are compared with the assistance unit's gross monthly income as defined in ARM 37.78.103.

GROSS MONTHLY INCOME STANDARDS (GMI)

| Number of<br>Persons in<br>Household | Gross Monthly<br>Income (GMI) |
|--------------------------------------|-------------------------------|
| 1                                    | \$ 522                        |
| 2                                    | 703                           |
| 3                                    | 884                           |
| 4                                    | 1,066                         |
| 5                                    | 1,249                         |
| 6                                    | 1,430                         |
| 7                                    | 1,611                         |
| 8                                    | 1,793                         |
| 9                                    | 1,974                         |
| 10                                   | 2,155                         |
| 11                                   | 2,337                         |
| 12                                   | 2,518                         |
| 13                                   | 2,699                         |
| 14                                   | 2,880                         |
| 15                                   | 3,062                         |
| 16                                   | 3,245                         |
| 17                                   | 3,426                         |
| 18                                   | 3,608                         |
| 19                                   | 3,789                         |
| 20                                   | 3,970                         |

(b) Net monthly income standards are used to compute gross monthly income standards (GMI).

NET MONTHLY INCOME STANDARDS (NMI)

|    |        |
|----|--------|
| 1  | \$ 282 |
| 2  | 380    |
| 3  | 478    |
| 4  | 576    |
| 5  | 675    |
| 6  | 773    |
| 7  | 871    |
| 8  | 969    |
| 9  | 1,067  |
| 10 | 1,165  |
| 11 | 1,263  |
| 12 | 1,361  |
| 13 | 1,459  |
| 14 | 1,557  |
| 15 | 1,655  |
| 16 | 1,754  |
| 17 | 1,852  |
| 18 | 1,950  |
| 19 | 2,048  |
| 20 | 2,146  |

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(c) Benefit standards are compared with the assistance unit's countable income as defined in ARM 37.78.103.

BENEFITS STANDARDS

|    |        |
|----|--------|
| 1  | \$ 221 |
| 2  | 298    |
| 3  | 375    |
| 4  | 452    |
| 5  | 530    |
| 6  | 607    |
| 7  | 684    |
| 8  | 761    |
| 9  | 838    |
| 10 | 915    |
| 11 | 991    |
| 12 | 1,068  |
| 13 | 1,145  |
| 14 | 1,222  |
| 15 | 1,299  |
| 16 | 1,377  |
| 17 | 1,454  |
| 18 | 1,531  |
| 19 | 1,608  |
| 20 | 1,685  |

(5) The GMI limit for post employment services (PES) and post employment training and education (PETE) is 150% of federal poverty level and it varies depending on the number of people in the assistance unit. The GMI limit sets the level of GMI for each size assistance unit which cannot be exceeded if the assistance unit is to be eligible for PES payments or PETE payments.

(6) The adult's gross monthly earned income as defined in ARM 37.78.103 is compared to the applicable GMI limit. If the assistance unit's GMI exceeds the GMI limit, the assistance unit is ineligible for assistance. Monthly income is compared to the full limit even if the eligibility is being determined for only part of the month.

(a) Eligibility for PES payments and PETE payments is determined prospectively based on the department's best estimate of income and other circumstances which will exist in the application month.

(b) When comparing income to the income limits, income anticipated to be received in the benefit month is used. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211, 53-4-241 and 53-4-601, MCA; NEW, 1996 MAR p. 2194, Eff. 8/9/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2001 MAR p. 183, Eff. 1/26/01; AMD, 2002 MAR p. 1771, Eff. 6/28/02; AMD, 2003 p. 1645, Eff. 8/1/03.)

37.78.421 TANF: TANF CASH ASSISTANCE; LUMP SUM PAYMENTS

(1) This rule governs lump sum payments for purposes of TANF cash assistance.

(2) Lump sum payments are payments of a non-recurring sum of earned or unearned income.

(3) The assistance unit may lose eligibility for one or more months if, when the lump sum payment is added to all other countable resources, the total exceeds the \$3,000 resource limitation. The household will be ineligible as long as the total countable resources exceed the \$3,000 resource limitation.

(History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Rule 22 reserved



37.78.423 TANF: TANF CASH ASSISTANCE; PROTECTIVE PAYEE

(1) A protective payment plan shall be implemented when the caretaker relative has clearly demonstrated an inability or unwillingness to use the family's assistance payments to meet the basic needs of the minor children in the household, as determined by an employee of the division of the department which provides protective services to children.

(2) Selection of the protective payee will be made by the participant, or with the participant's participation and consent, to the extent possible. Selection of a protective payee may be made among relatives, friends of the family, the clergy, a community service group, a voluntary social service agency, or departmental staff. If it is in the best interest of the participant for a staff member of the department of public health and human services to serve as protective payee, a staff member will be appointed. The selection of protective payees may not include:

- (a) county commissioners;
- (b) executive heads of the department of public health and human services;
- (c) persons determining financial eligibility for public assistance;
- (d) special investigative or resource staff;
- (e) staff handling fiscal processes;
- (f) landlords;
- (g) grocers or other vendors of goods or services dealing directly with the client. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201 and 53-4-211, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.424 TANF: RESTRICTIONS ON PAYMENTS (1) TANF program monthly payments are made directly to eligible persons for their own use except in cases of protective payees. TANF cash assistance payments are made either by check, direct deposit, or by placing benefits in an electronic benefit transfer (EBT) account. The check may not be mailed to the grantee in care of a creditor delivered through indirect representation. Payments may not be forwarded from one address to another.

(2) TANF payments, including but not limited to employment and training supportive services payments, are made directly to the participant, protective payee or vendor.

(3) The check may not be mailed to the grantee in care of a creditor or delivered through indirect representation.

(4) Payments may not be forwarded from one address to another. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.425 TANF: NON-FINANCIAL ASSISTANCE PAYMENT (1) A PES payment may be provided to assist a family with emergency needs related to maintaining employment of training needs necessary to advance in employment provided the family meets all financial and non-financial eligibility requirements set forth in ARM 37.78.206(4) through (6), 37.78.207(6), and 37.78.420(5) and (6). Issuance of a PES payment is dependent on available funding in the family's county of residence. The payment may be made at the department's discretion for a variety of employment related expenses, including:

- (a) transportation, including vehicle repairs, tires, insurance, driver's license fee, gas, etc.;
  - (b) clothing, such as uniforms and other specialized clothing and footwear or other employment required apparel;
  - (c) tools and equipment;
  - (d) union dues, special fees, licenses or certificates; or
  - (e) relocation expenses to permit a participant to accept verified employment in another county or state.
- (2) A PES payment may not be used to pay for:
- (a) any medical service or item; or
  - (b) fines of any type, including traffic or criminal.
- (3) A PES payment will be provided only if:
- (a) all other resources have been exhausted including but not limited to the family's personal resources;
  - (b) the department may require verification of expenses for which the payment is requested; and
  - (c) one cost estimate for major expenses.
- (4) Payments cannot duplicate funds available through supportive services provided by other agencies or programs.
- (5) Payments will be made to the individual or to the vendor.

(6) The maximum amount of the payment will be the amount necessary to alleviate the emergency, up to but not in excess of \$1,000 per family per year.

(7) A PETE payment may be provided to assist a family with necessary expenses, while the parent is attending a training or education program necessary to advance in employment and is directly intended to promote improved wages. Issuance of a PETE payment is dependent on available funding in the family's county of residence. A PETE payment is \$494 per month per household, without regard to the number of parents approved for PETE. The payment may be made at the department's discretion.

(8) To be eligible a household must meet all financial and non-financial eligibility requirements as stated in ARM 37.78.206(4) through (6), 37.78.207(6) and 37.78.420(5) and (6). The parent applying for PETE must also meet the following eligibility criteria:

(a) must be working an average of 10 hours per week in paid employment;

(b) must have worked at least 30 hours per week for 10 or more of the 16 weeks preceding application for a PETE or enrollment in the current semester/quarter or training program;

(c) must not currently receive TANF cash assistance for themselves or any member of the filing unit;

(d) must have received TANF cash assistance sometime in the two years prior to application for PETE; and

(e) must pass a local community screening by submitting the following documentation:

(i) level of training or education being sought may not extend beyond a bachelor's level;

(ii) proof of acceptance to or enrollment in a training program or educational institution;

(iii) a written plan detailing career advancement goal and training/course/class schedule to ensure program completion by June 30, 2003 and if the program extends beyond June 30, 2003, the plan must include an explanation of how the parent will complete the program once PETE assistance ends; and

(iv) proof of current paid employment.

(9) Once a parent is approved for PETE the parent will continue to be eligible as long as the parent has an eligible minor child in the home and the parent verifies monthly that:

(a) the parent is following the PETE career advancement plan; and

(b) the parent continues to work an average of 10 hours per week.

(10) A work support payment may be provided to a TANF cash assistance household to assist with employment related needs, the month following the month of case closure. Issuance of a work support payment is dependent on available funding. A work support payment is equal to the TANF cash assistance benefit standard for a household of three as defined in ARM 37.78.420.

(11) An assistance unit is eligible to receive a work support payment when:

(a) the assistance unit is losing TANF cash assistance eligibility due to new or increased earnings from employment and the new or increased earned income was reported within 10 calendar days of the participant's knowledge of the change; and

(b) the assistance unit has not received a work support payment in the prior 12 months. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211, 53-4-601 and 53-4-603, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 1771, Eff. 6/28/02.)

Rules 26 through 29 reserved

37.78.430 TANF: UNDERPAYMENTS AND OVERPAYMENTS (1) The department may recover the value of any TANF benefits paid to or on behalf of an assistance unit to which it was not entitled, regardless of whether the overpayment occurred due to an error by the department, a nonfraudulent action or omission by the TANF participant, or fraudulent action by the TANF participant.

(2) Recovery may be made from the filing unit which was overpaid, from any individual member of the assistance unit at the time when the overpayment occurred, or from any assistance unit which includes a person who was a member of the overpaid filing unit at the time when the overpayment occurred.

(3) Recovery of TANF cash assistance shall be made as follows:

(a) If an overpayment of benefits has occurred due to fraudulent action by a member of the filing unit, the sum which must be repaid is 125% of the amount of assistance to which the assistance unit was not entitled. Fraudulent action includes but is not limited to the making of an intentionally false statement or misrepresentation and the intentional withholding of information.

(b) If an overpayment of benefits has occurred due to department error or a nonfraudulent error by a member of the filing unit, the sum which may be recovered is 100% of the amount of assistance to which the assistance unit was not entitled.

(c) The department is entitled to recover an overpayment regardless of whether any or all of the members of the overpaid assistance unit are currently receiving assistance.

(i) In the case of an individual or assistance unit currently receiving assistance, the department may recover an overpayment by reducing the current cash assistance amount by 10% and retaining the sum by which the cash assistance has been reduced to repay the overpayment. At the department's option, recovery may also be made by voluntary payments by a member of the overpaid assistance unit or any other legal means available to collect a debt, including the use of offset against any monies which the state of Montana owes or may owe to a member of the filing unit.

(ii) In the case of individuals who are not currently receiving assistance, recovery may be made by voluntary payments by a member of the overpaid assistance unit or any other legal means available to collect a debt, including the use of offset against any monies which the state of Montana owes or may owe to a member of the filing unit.

(4) When an assistance unit has been underpaid due to an error by the department or the participant or due to any other reason, the underpayment shall be corrected by issuing a supplemental payment in the amount by which the assistance unit was underpaid.

(a) For purposes of determining continued eligibility and amount of assistance, the additional amount paid to the assistance unit to correct an underpayment will not be considered as income or as a resource in the month it is paid nor in the following month. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-108, 53-2-201 and 53-4-211, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Subchapter 5

TANF Cash Assistance:  
Program Violations and Sanctions

Rules 01 through 04 reserved

37.78.505 TANF: TANF CASH ASSISTANCE; INTENTIONAL PROGRAM VIOLATION AND DISQUALIFICATION HEARINGS (1) An intentional program violation (IPV) is a willful action which consists of:

- (a) a false or misleading statement or a misrepresentation, concealment, or withholding of facts; or
- (b) any other action intended to mislead, misrepresent, conceal, or withhold facts.

(2) If a TANF participant appears to have committed an IPV as defined in (1), the local office of public assistance (OPA) must initiate administrative disqualification hearing (ADH) procedures to determine if the person should be disqualified from receiving cash assistance.

(3) The individual subject to the ADH must be contacted in writing and requested to appear for a pre-hearing meeting at the local office of public assistance. During the pre-hearing meeting, the individual will be presented with the following:

- (a) an explanation of the charges against the individual;
- (b) the total amount of the overpayment and the time period for which the claim was established;
- (c) the evidence which exists;
- (d) the individual's right to an administrative disqualification hearing;
- (e) the option to waive the right to an ADH by signing a written "waiver of right to administrative disqualification hearing"; and
- (f) an explanation of the disqualification period and repayment obligation if the individual is found to have committed an IPV at an ADH or signs a waiver of the individual's right to an ADH.



(4) If the individual does not sign a waiver of the right to an ADH at the pre-hearing meeting in the local office, an ADH shall be scheduled and the individual alleged to have committed an IPV shall be sent a written notice of the hearing at least 30 days prior to the date of the hearing.

(a) The notice must contain:

(i) the date, time, and place of the hearing;  
(ii) the charge(s) against the individual;  
(iii) a summary of the evidence, and how and where the evidence can be examined;

(iv) a warning that the decision will be based solely on the information provided by the department if the individual fails to appear at the hearing;

(v) a statement that an individual who has received notice of the hearing but did not appear at the hearing shall have 10 days from the date of the hearing to present good cause for the failure to appear in order to receive a new hearing;

(vi) a warning that a determination of intentional program violation will result in disqualification periods as set forth in (8)(b)(i) through (b)(iii) of this rule, and a statement of which penalty the department believes is applicable to the individual's case;

(vii) a listing of the individual's rights as set forth in (7) of this rule;

(viii) a statement that the hearing does not preclude the state or federal government from prosecuting the individual for the intentional program violation in a civil or criminal court action, or from collecting any over issuances;

(ix) if there is an individual or organization available which provides free legal representation, notice of the availability of that service; and

(x) notice of the individual's right to obtain a copy of the department's hearing procedures upon request.

(b) The hearing may be held if the notice is returned as undeliverable. However, if no proof of receipt of the notice is obtained, the hearing decision shall be set aside and a new hearing shall be held if the recipient claims good cause for failure to appear due to non-receipt of the notice within 30 days after the date of written notice of the hearing decision and shows good cause as defined in ARM 37.78.508(4)(a) through (g)(i).

(5) If the participant or the participant's representative cannot be located or fails without good cause to appear at the hearing, the hearing shall be held, but the hearing officer must carefully consider the evidence and determine whether clear and convincing evidence exists that an intentional program violation was committed.

(a) The participant has 30 days as specified in (4) (b) to claim good cause for failure to appear based on non-receipt of the notice. If the participant claims good cause for failure to appear based on any other cause or circumstance, the recipient must present the claim of good cause within five days of the date of the hearing.

(6) The ADH shall be conducted by an impartial individual appointed or employed by the department as a hearing officer who has not had previous involvement in the individual's case.

(7) An individual charged with an IPV has the right to:

(a) examine all documents and records to be used at the hearing at a reasonable time before the date of hearing as well as during the hearing;

(b) examine the contents of the individual's case file, provided that confidential information such as the name of persons who have anonymously disclosed information about the individual or information about a pending criminal investigation or action shall not be released to the individual and also cannot be offered into evidence at the hearing;

(c) a free copy of any portions of the case file which are relevant to the hearing, if the individual requests a copy.

(8) After the ADH, the hearing officer shall issue a written decision to the participant and the department no later than 90 days after written notice is given to the participant of the hearing, unless the hearing has been postponed, in which case the 90 day period shall be extended for as many days as the hearing was postponed.

(a) The participant is entitled to one postponement of the hearing if the request for postponement is made at least 10 days in advance of the scheduled date of hearing. However, the hearing may not be postponed for more than a total of 30 days.

(b) The department may limit the number of postponements to one.

(9) If the hearing officer determines after an ADH has been held that the individual committed an IPV, the department must provide the individual with a written notice of disqualification prior to the commencement of the disqualification period. The notice must contain the following information:

(a) notice of the decision and the reason for the decision;

(b) the date the disqualification shall take effect;

(c) if the individual is not currently participating in the program, notice that the period of disqualification shall be deferred until the individual applies for and is found eligible for assistance again;

(d) the amount of assistance the remaining household members, if any, will receive during the disqualification period.

(10) If it is determined through an ADH that an individual committed an IPV or if the individual alleged to have committed an IPV signs a waiver of right to ADH, the period of disqualification shall be:

(a) for IPV's involving misrepresentation of the individual's residence to obtain TANF cash assistance benefits in two or more states simultaneously, 10 years;

(b) for all other types of IPV's:

(i) 12 months for the first violation;

(ii) 24 months for the second violation; and

(iii) permanently for the third violation.

(11) Disqualification shall begin the first month which follows the date the individual receives written notice of disqualification. Once a disqualification has been imposed, the period of disqualification must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.

(12) The determination by the hearing officer that an IPV has occurred cannot be reversed by a subsequent fair hearing decision relating to the same or a similar issue.

(13) During the disqualification period, the income and resources of the disqualified individual shall be counted in their entirety, but the disqualified individual shall not be included as a member of the assistance unit in determining the size of the assistance unit.

(14) During the disqualification period, the disqualified individual shall lose his or her portion of the monthly cash payment and/or any other TANF cash assistance benefits.

(History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.506 TANF: TANF CASH ASSISTANCE; SANCTIONS (1) If any member of the assistance unit fails or refuses without good cause as defined in ARM 37.78.508 to comply with an employment related or training activity as defined in (8), the first sanction will result in the reduction of the monthly TANF cash assistance payment by an amount equal to one person's share of the payment for one month. The second and subsequent sanctions will result in case closure and the imposition of a one month ineligibility period. This rule does not apply to households who are receiving TANF extended benefits as defined in ARM 37.78.202. The imposition of a sanction ends the currently negotiated FIA/WoRC employability plan the last day of the penalty month. A sanction is considered imposed even if a fair hearing is requested and continued benefits are issued.

(2) During the penalty period for the first sanction, the income and resources of a sanctioned individual will continue to be considered in determining eligibility and grant amount for the assistance unit.

(3) For TANF cash assistance program participants, the penalty period for the first sanction will count toward the time limits provided in ARM 37.78.201.

(4) A sanctioned individual must negotiate and sign a new family investment agreement prior to the end of the sanction penalty period for the first sanction or the household's TANF cash assistance will terminate at the end of the sanction penalty period.

(5) If the TANF cash assistance case closes because the sanctioned individual did not end the sanction by negotiating a new FIA during the penalty period, the household must serve a one month ineligibility period for the first sanction as long as the sanctioned individual is a required filing unit member.

(6) The food stamp allotment for a sanctioned individual's household will not increase as a result of cash assistance sanctioning.

(7) During the penalty period, child care assistance will continue if:

(a) child care is necessary to allow the TANF cash assistance participant to perform employment-related or training activities, as defined in (8), which are required by the family investment agreement; and

(b) the sanctioned individual participates in specified employment-related or training activities throughout the penalty period. If the sanctioned individual fails to comply with any employment-related or training activity during the penalty period, child care assistance will be discontinued and will not be reinstated during the penalty period even if the sanctioned individual begins to comply or participate.

(8) "Employment-related or training activities", as specified in (7)(a), means activities specified on the FIA/WoRC employability plan or in the tribal NEW plan which are directly intended to promote economic self-sufficiency.

(9) If a sanctioned individual requests a hearing to challenge the sanction and receives continued benefits pending the hearing, the sanction will not be imposed until a final decision is obtained. If a final decision upholding the sanction is obtained, the assistance received during the penalty period pending the fair hearing will be considered an overpayment. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211, 53-4-601, 53-4-608 and 53-4-717, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; AMD, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 952, Eff. 3/29/02; AMD, 2002 MAR p. 1771, Eff. 6/28/02; AMD, 2004 MAR p. 1482, Eff. 7/2/04.)

37.78.507 TANF: REPORTING REQUIREMENTS (1) All applicants for or participants in TANF cash assistance must report any change of address and any change in income, resources, household composition or other circumstances which may affect eligibility or benefit amount to the eligibility case manager as soon as possible, but in any event within 10 calendar days after the applicant or participant has knowledge of the change. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-4-211 and 53-4-601, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.508 TANF: TANF CASH ASSISTANCE; GOOD CAUSE (1) A TANF cash assistance participant's failure to comply with a program requirement, such as a requirement under a family investment agreement, including but not limited to participation in an employment and training activity or the requirement of accepting or maintaining suitable employment, shall not result in imposition of a sanction if good cause exists for the failure to comply.

(2) If it appears that a participant has failed to comply with a FIA requirement, the participant shall be given the opportunity to provide information to the eligibility case manager or work readiness component (WoRC) case manager regarding the alleged noncompliance and the reasons for the alleged failure to comply. If the committee that reviews the sanction determines from the available information, including any information provided by the participant, that there was a failure to comply and that good cause for the noncompliance does not exist, a sanction shall be imposed in accordance with ARM 37.78.506.

(3) Good cause consists of circumstances beyond the participant's control which prevent compliance with a requirement or which excuse a failure to comply.

(4) Good cause for failure to keep appointments, report changes, provide required information, or comply with family investment agreement activities or other eligibility requirements includes, but is not limited to, the following circumstances:

- (a) illness or incapacity of the participant;
- (b) illness or incapacity of another household member sufficiently serious to require the presence of the participant;
- (c) death of a family member;
- (d) participant's incarceration or required court appearance;
- (e) inability to obtain or pay for necessary child care;
- (f) adverse weather conditions which make travel impossible or unreasonably dangerous;
- (g) lack of transportation in a case where the participant cannot reasonably be expected to walk or bicycle because of the distance or the participant's health or physical limitations;
- (i) Transportation is considered to be available if the participant has the use of a private vehicle, has access to public transportation, or can ride with someone else, provided that a participant will not be required to accept a ride under circumstance which a reasonable person would consider dangerous or unsuitable.

(5) Good cause for failure to accept employment or for voluntarily quitting a job or reducing earned income from employment includes, but is not limited to, the following circumstances:

(a) The wage is less than the state minimum wage.

(b) Transportation is not available and the participant cannot reasonably be expected to walk or bicycle to work because of the distance or the participant's health or physical limitations.

(i) Transportation is considered to be available if the participant has the use of a private vehicle, has access to public transportation, or can ride with someone else, provided that a participant will not be required to accept a ride under circumstance which a reasonable person would consider dangerous or unsuitable.

(c) Participant is unable to obtain or pay for necessary child care.

(d) Working conditions are unsuitable because of an unreasonable degree of risk to health or safety or lack of workers' compensation coverage.

(e) The participant is age 60 or older.

(f) The participant has a physical or mental impairment which prevents the participant from accepting or maintaining this employment, as determined by a licensed physician or psychologist.

(i) A temporary mental or physical illness, injury, or incapacity may constitute good cause for the duration of the incapacity only.

(g) The participant lacks the necessary work-related skills for the employment and cannot acquire such skills in time to obtain or retain the employment. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201 and 53-4-211, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)



## Subchapter 6

## TANF Emergency Assistance

37.78.601 EMERGENCY ASSISTANCE (1) Financial assistance and/or services may be authorized to meet the emergency needs of a child under the age of 21, who lives with a specified relative as defined in ARM 37.78.207 or who is under age 18 and has lived with a specified relative within the six months prior to the request date in a place of residence maintained by the relative as the child's home, in the following circumstances:

(a) where the emergency arises from an unforeseen event which was beyond the household's control, and which has caused or threatens to cause the destitution of the child; or

(b) where the emergency arises out of a situation identified by the department as involving abuse or neglect of the child.

(2) For purposes of this rule, household means the child whose needs are to be met by the emergency assistance and all other persons who live with the child and are related to the child by blood or marriage, as specified in ARM 37.78.207.

(3) Emergency assistance will be provided only if:

(a) the child and all household members are U.S. citizens or qualified aliens as defined in ARM 37.78.220.

(b) the emergency needs did not arise because the child or the child's caretaker relative refused without good cause to accept or maintain employment or training for employment;

(i) good cause for failure to accept or maintain employment or training for employment shall be determined in accordance with the provisions of ARM 37.78.508.

(c) the emergency situation could not have been foreseen by the household and was not under the household's control; and

(d) the household has exhausted all other means available to meet the emergency need, including but not limited to all liquid resources of the household and any benefits or services for which the household is eligible.

(4) Emergency assistance may be authorized once only in any period of 12 consecutive months.

(5) Emergency assistance shall be provided in the form of cash payments directly to the household or protective payee or to the vendor of a necessary item or service.

(6) Emergency assistance shall not be provided to pay for the following:

(a) penalties, fines, and taxes, including but not limited to personal and real property taxes;

(b) insurance - home, auto, or life;

(c) burials;

(d) mortgages;

(e) reimbursements for expenses already paid or money loaned to the household to pay expenses;

(f) rental, security, and/or utility deposits or any rental payment required to be paid in advance before the household takes possession;

(g) bills for services already received, including medical bills;

(h) bills more than 30 days past due, excepting the two most recent months of past due rent or utility bills if an eviction notice or utility cut-off notice is imminent and the cause of the eviction or utility shut-off was an unforeseen event. For purposes of this rule, "imminent" means likely to happen without delay as a result of unanticipated circumstances.

(i) legal fees, including but not limited to court costs and attorney fees;

(j) the purchase of a vehicle; or

(k) any travel expense that would be payable by any source including but not limited to medicaid or TANF cash assistance supportive services.

(7) Emergency assistance may be provided to pay for home-based services, substitute care or foster care if the department identifies a need for services to prevent the child's removal, expedite the return of the child to the home, or prevent the need for protective services for the child.

(8) Information will be provided and referrals will be made to meet the needs of the household for counseling, shelter, child care, legal services, homemaker services, or other services.

(9) A pregnant woman who has no children living with her is not eligible to receive emergency assistance to meet her own needs or the needs of her unborn child unless:

(a) she is in the last trimester of her pregnancy; and

(b) an employee of the department who provides protective services to children has determined that she is in need of emergency assistance.

(10) Receipt of emergency assistance does not count as using any month of time-limited TANF cash assistance. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201 and 53-4-211, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 199, Eff. 1/28/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.602 EMERGENCY ASSISTANCE PROCEDURES FOLLOWED IN DETERMINING ELIGIBILITY (1) A household member or an employee or agent of the department may make a request for emergency assistance.

(2) Eligibility requirements for emergency assistance must be verified and documented.

(3) To receive emergency assistance, an applicant must show:

(a) that a child who is under the age of 21 is living with a relative specified in ARM 37.78.207 or is under age 18 and has lived with a specified relative within six months of the date of the request in a place of residence maintained by the relative as the child's home; and

(b) that all requirements set forth in ARM 37.78.601 have been met.

(4) Emergency assistance may be provided in addition to but not as a substitute for basic needs assistance, including but not limited to TANF cash assistance, tribal TANF family assistance or bureau of Indian affairs (BIA) general assistance.

(5) The completed request for emergency assistance shall be submitted to the local office of public assistance. The applicant shall be notified by the department of the approval or reasons for denial of the request for emergency assistance.

(6) There are no residency requirements for emergency assistance. Non-residents, migrants and transients who otherwise meet the requirements of this part are eligible for emergency assistance.

(7) The department shall make a determination of eligibility for emergency assistance within five days after receiving the application and all verification required to support the application.

(8) An expedited administrative review of a denial of a request for emergency assistance will be available to applicants who request in writing such an expedited review within five working days of the date of the denial. Such a review will be held within five working days of the date the request is received by the local office. Requests not made in accordance with these provisions will be processed according to the department's standard fair hearing procedures. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201 and 53-4-211, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 199, Eff. 1/28/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Rules 03 through 05 reserved

37.78.606 TANF: TANF CASH ASSISTANCE; NEEDY PREGNANT WOMAN (1) Cash assistance payments shall be provided to an otherwise eligible pregnant woman with no other children receiving assistance when the fact of pregnancy has been verified by a physician or the physician's designee, beginning the third month prior to the month in which the child is expected to be born. (History: Sec. 53-2-201 and 53-4-212, MCA; IMP, Sec. 53-2-201 and 53-4-211, MCA; NEW, 1998 MAR p. 3284, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Subchapter 7 reserved

Subchapter 8

TANF Employment and Training

37.78.801 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING:  
PURPOSE (1) These rules govern TANF cash assistance employment and training for persons who are recipients of the TANF cash assistance program. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Rules 02 through 05 reserved

37.78.806 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING: PARTICIPATION (1) A person who is eligible for the TANF cash assistance program is required to participate in employment and training as provided in these rules. All adults, minor parents, teen parents, and minor children 16 or 17 who are not attending school or an equivalency program full-time must participate in employment and training activities as indicated in the FIA/WoRC employability plan if they are referred to the WoRC program for case management, or as indicated in their tribal NEW plan if they are referred to the tribal NEW program for case management.

(2) Some TANF employment and training activities may differ from community to community based on available resources. Participants may be placed in any activities available in their community.

(3) A WoRC participant who loses eligibility for the TANF cash assistance program due to employment may, if the participant's case manager approves, receive case management services for up to 180 days after the last day of the last month of eligibility for TANF cash assistance. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03; AMD, 2004 MAR p. 1482, Eff. 7/2/04.)

37.78.807 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING ACTIVITIES (1) Participants in TANF cash assistance, regardless of whether they are members of a single-parent or two-parent family, may, in accordance with their WoRC employability plan, subject to availability in their community, participate in the following activities:

(a) paid employment or self employment. The hours counted for self employment beyond the first two months are the gross wages divided by minimum wage;

(b) work experience placement (WEX) as defined at ARM 37.78.103;

(c) job search as defined at ARM 37.78.103. Job search is limited for each participant in each federal fiscal year by federal rule;

(d) community service as defined at ARM 37.78.103;

(e) vocational educational training as defined at ARM 37.78.103. Vocational educational training is limited in a lifetime for each participant by federal rule;

(f) job skills training directly related to employment as defined at ARM 37.78.103. Job skills training related to employment is limited to 10 hours per week per individual for single parent households and five hours per week per individual for two parent households; and

(g) educational activities as defined at ARM 37.78.103;

(i) Educational activities are limited to individuals who do not have a high school diploma or GED.

(ii) Educational activities are limited for individuals 20 years of age or older to 10 hours per week per individual for single parent households and five hours per week per individual for two parent households. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 1771, Eff. 6/28/02; AMD, 2004 MAR p. 1482, Eff. 7/2/04.)

Rules 08 and 09 reserved

37.78.810 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING:  
WORK EXPERIENCE PLACEMENT (WEX) (1) The work experience placement (WEX) component is an activity of TANF employment and training designed to improve the employability of participants by assigning a participant to train in a nonprofit organization or public agency or in a for profit private agency. The specific purposes of the work experience placement component are to:

(a) provide meaningful training for participants with little or no work history;

(b) provide an avenue for participants to earn a current recommendation; and

(c) provide participants with the skills to balance the demands of home and activities outside the home.

(2) After consulting with the participant and giving due consideration to the participant's preferences, the department shall determine whether the participant shall participate in WEX rather than in some other component, what work site the participant will be assigned to and how many hours per week the participant shall be required to participate. However, participants may not be required to participate more than 40 hours per week in work experience component activities, including hours spent in volunteer activities or paid employment.

(3) A participant's assignment to a work experience component site is subject to the following requirements:

(a) the site must be in compliance with all applicable federal, state, or local health and safety standards;

(b) non-displacement should be established; and

(c) the work site and the sponsoring agency have entered into a written agreement.

(4) A participant shall not be assigned to a site until the department and the sponsoring agency have entered into an agreement. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03; AMD, 2004 MAR p. 1482, Eff. 7/2/04.)



37.78.811 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING:  
PARTICIPATION REQUIREMENTS FOR EDUCATIONAL ACTIVITIES (1) A teen parent who is under 18, who has not completed high school or its equivalent or any other teen student referred to TANF employment and training must participate in educational activities unless the case manager designates or approves another activity.

(2) The determination of the appropriateness of educational activities is based on:

(a) results of the participant's available educational assessment;

(b) the participant's social and psychological history;

(c) availability of educational resources; and

(d) the employment goals of the participant specified in the employability plan. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Rules 12 through 16 reserved

37.78.817 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING: TWO-PARENT FAMILIES PARTICIPATION AND OTHER REQUIREMENTS (REPEALED) (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03; REP, 2004 MAR p. 1482, Eff. 7/2/04.)

Rules 18 through 24 reserved

37.78.825 TANF EMPLOYMENT AND TRAINING: POST-SECONDARY PARTICIPATION CRITERIA (REPEALED) (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 1771, Eff. 6/28/02; REP, 2004 MAR p. 1482, Eff. 7/2/04.)

37.78.826 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING: REQUIREMENTS FOR SATISFACTORY PROGRESS IN EDUCATIONAL, WORK AND TRAINING ACTIVITIES (1) Satisfactory progress in educational activities must be made in accordance with the requirements of the institution the participant is attending. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2002 MAR p. 1771, Eff. 6/28/02; AMD, 2004 MAR p. 1482, Eff. 7/2/04.)

Rules 27 through 29 reserved

37.78.830 TANF EMPLOYMENT AND TRAINING: JOB SEARCH  
(REPEALED) (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201,  
53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff.  
1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; TRANS, from SRS,  
2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03; REP, 2004  
MAR p. 1482, Eff. 7/2/04.)

37.78.831 FAIM EMPLOYMENT AND TRAINING: ON-THE-JOB  
TRAINING (OJT) (REPEALED) (History: Sec. 53-4-212, MCA; IMP,  
Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996  
MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98;  
TRANS, from SRS, 2000 MAR p. 3414; REP, 2003 MAR p. 15, Eff.  
1/17/03.)

37.78.832 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING:  
SUPPORTIVE SERVICES (1) Dependent upon available funding, money may be available to pay expenses that are, or may be, incurred in a benefit month, by a TANF cash assistance participant to comply with family investment agreement activities.

(2) Supportive services funds may not be used to pay for:

(a) any medical service or item; or

(b) fines of any type, including traffic, criminal, and library fines.

(3) Supportive services payments may be provided as appropriate by the case manager.

(4) Supportive services may be provided in the form of voucher payments.

(5) Supportive services may be provided only if they are necessary to comply with the family investment agreement or are necessary for the participant to accept or maintain employment.

(6) Supportive services will not be made if similar services are available through other programs.

(7) Supportive service payments will not exceed \$1,000 per household per state fiscal year.

(8) Each participant is expected to cost share between 5% and 15% in expenses. This cost share can be through an actual outlay of cash or an in-kind contribution. Each community advisory council establishes guidelines for determining exceptions to the limits and cost share requirement. (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03.)

Rules 33 through 35 reserved

37.78.836 FAIM EMPLOYMENT AND TRAINING: GOOD CAUSE  
(REPEALED) (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; REP, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.837 FAIM EMPLOYMENT AND TRAINING: SANCTIONS  
(REPEALED) (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; TRANS, from SRS, 2000 MAR p. 3414; REP, 2003 MAR p. 15, Eff. 1/17/03.)

37.78.838 FAIM EMPLOYMENT AND TRAINING: FAIR HEARING PROCEDURE (REPEALED) (History: Sec. 53-4-212, MCA; IMP, Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA; NEW, 1996 MAR p. 277, Eff. 1/26/96; AMD, 1998 MAR p. 3303, Eff. 12/18/98; AMD, 2000 MAR p. 1653, Eff. 6/30/00; TRANS, from SRS, 2000 MAR p. 3414; REP, 2003 MAR p. 15, Eff. 1/17/03.)

Subchapter 9 reserved

Subchapter 10

FAIM Food Stamp Program

37.78.1001 FAIM FOOD STAMP PROGRAM: PURPOSE (1) The rules in this chapter govern food stamp eligibility, benefit amount and other requirements for families in the families achieving independence in Montana (FAIM) program.

(2) The FAIM food stamp program shall be governed by the regulations of the food and consumer service of the U.S. department of agriculture contained in the following parts, except as the rules in this chapter make specific provisions which are contrary to the federal food stamp regulations, in which case these rules shall take precedence over the federal regulations: 7 CFR, parts 271 through 275, pertaining to the purpose, definitions, administration, eligibility and certification and issuance and use of coupons in the food stamp program. The department hereby adopts and incorporates by reference 7 CFR 271 through 275, as amended through January 1, 1995. A copy of 7 CFR 271 through 275 as amended through January 1, 1995 may be obtained from the Department of Public Health and Human Services, Office of Legal Affairs, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210. (History: Sec. 53-2-201 and 53-2-901, MCA; IMP, Sec. 53-2-901, MCA; NEW, 1996 MAR p. 566, Eff. 1/26/96; TRANS, from SRS, 2000 MAR p. 3414.)

37.78.1002 FAIM FOOD STAMP PROGRAM: DEFINITIONS

(1) "Benefit month" means the calendar month for which food stamp benefits are issued.

(2) "Department" means the Montana department of public health and human services.

(3) "Earned income" means wages, earnings or other payments or remuneration received for work and includes all income specified in 7 CFR 273.9(b)(1)(i) through (v).

(4) "Unearned income" means all income which does not meet the definition of earned income in (3) of this rule and includes all income specified in 7 CFR 273.9(b)(2)(i) through (vi).

(5) "Household" means an individual or group of individuals who live together and customarily purchase and prepare food together and whose eligibility for food stamps shall be determined together as a unit.

(6) "Prospective budgeting" means the determination of a household's eligibility and benefit amount based on an estimate of the income and circumstances which will exist in the benefit month. (History: Sec. 53-2-201 and 53-2-901, MCA; IMP, Sec. 53-2-901, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; TRANS, from SRS, 2000 MAR p. 3414.)

Rules 03 and 04 reserved

37.78.1005 FAIM FOOD STAMP PROGRAM: DETERMINING  
ELIGIBILITY AND BENEFIT AMOUNT (1) Eligibility and the amount  
of food stamp benefits to which the household is entitled shall  
be determined using prospective budgeting.

(2) Eligibility begins as of the date the household's  
application for food stamps is received in the office of human  
services in the county where the household resides. If a new  
member joins a household which is already receiving benefits,  
the new member will be included in the household for purposes of  
determining eligibility and benefit amount beginning the month  
after the month in which the new member's presence is reported.

(3) Once a household has been determined to be eligible  
for food stamps, the household will continue to receive food  
stamps continuously until the department determines that the  
household is no longer eligible. The household shall not be  
required to complete a new application for food stamps unless  
the household's benefits are terminated voluntarily or  
involuntarily and the household subsequently wishes to receive  
benefits again after a break of 30 or more days in eligibility.

(a) The department will re-evaluate the household's  
eligibility and benefit amount once a year after the initial  
determination of eligibility. This re-evaluation shall include  
a face-to-face interview with a member of the household or an  
authorized representative of the household.

(b) The department shall re-evaluate the household's  
eligibility whenever information is received concerning changes  
in the household's income or circumstances which may affect  
eligibility or benefit amount. (History: Sec. 53-2-201 and 53-  
2-901, MCA; IMP, Sec. 53-2-901, MCA; NEW, 1996 MAR p. 284, Eff.  
1/26/96; TRANS, from SRS, 2000 MAR p. 3414.)



37.78.1006 FAIM FOOD STAMP PROGRAM: REPORTING AND VERIFICATION REQUIREMENTS (1) The household is required to report all changes which may affect the household's eligibility or benefit amount, including but not limited to changes in the household's address and shelter expenses, composition, income or resources.

(a) Changes must be reported as soon as possible but not later than 10 days after the household has knowledge of the change.

(b) The household is not required to report a change of income which is less than \$25 per month.

(2) Households with earned income must cooperate with a quarterly review of the household's income and circumstances conducted by the department. (History: Sec. 53-2-201 and 53-2-901, MCA; IMP, Sec. 53-2-901, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; TRANS, from SRS, 2000 MAR p. 3414.)

Rules 07 through 09 reserved

37.78.1010 FAIM FOOD STAMP PROGRAM: STANDARD UTILITY ALLOWANCE (1) The standard utility allowance (SUA) as specified in the department's food stamp manual will be used in determining eligibility and benefit amount for all households, regardless of whether the household has any heating or cooling costs, unless the household chooses to use its actual costs instead.

(a) The household may use actual costs in lieu of the SUA only if the household provides verification that their average monthly utility expenses exceed the SUA. (History: Sec. 53-2-201 and 53-2-901, MCA; IMP, Sec. 53-2-901, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; TRANS, from SRS, 2000 MAR p. 3414.)

37.78.1011 FAIM FOOD STAMP PROGRAM: RESOURCES (1) A household shall be eligible for food stamp benefits only if the combined countable resources of all household members do not exceed \$3000.

(2) In determining eligibility for food stamps, vehicles owned by a member of the household shall be counted as follows:

(a) the value of any income-producing vehicle shall be excluded;

(b) the value of one vehicle which is not income-producing shall be excluded regardless of the vehicle's value;

(c) the equity value of each vehicle which is not otherwise excluded shall be counted as a resource to the household. Equity value is obtained by subtracting from the fair market value of the vehicle the amount of any enforceable lien, encumbrance, or security interest in the vehicle. (History: Sec. 53-2-201 and 53-2-901, MCA; IMP, Sec. 53-2-901 and 53-2-904, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; TRANS, from SRS, 2000 MAR p. 3414.)

37.78.1012 FAIM FOOD STAMP PROGRAM: DEPENDENT CARE DEDUCTION (1) In determining eligibility and benefit amount, payments for the care of a dependent child or incapacitated adult living in the household will be deducted from the household's earned income. The maximum amount which can be deducted is \$200 per month per person receiving dependent care.

(a) If the payment is for the care of a child, it is deductible only if the child is:

(i) under the age of 16 years; or

(ii) physically or mentally incapable of caring for himself or herself, as determined by a licensed physician or psychologist.

(b) Only payments for care of the dependent person during the period of time the household member is at the place of employment or is in transit between the day care site and the place of employment may be deducted.

(c) Tuition or other payments to a private educational institution for a child who is 6 years of age or older cannot be deducted for any period of time when public schools are in session in the area where the child lives. (History: Sec. 53-2-201 and 53-2-901, MCA; IMP, Sec. 53-2-901, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; TRANS, from SRS, 2000 MAR p. 3414.)

37.78.1013 FAIM FOOD STAMP PROGRAM: UNEARNED INCOME EXCLUSIONS (1) The following kinds of unearned income are not counted in determining food stamp eligibility and benefit amount:

(a) energy assistance payment based on financial need;

(b) undergraduate student loans and grants for educational purposes made or insured under any program administered by the commissioner of education;

(c) gifts of money for a special occasion such as a birthday, holiday or graduation up to \$50 per gift per month for each household member; and

(d) child support payments returned to the household by the department's child support enforcement division, up to \$50 per month. (History: Sec. 53-2-201 and 53-2-901, MCA; IMP, Sec. 53-2-901 and 53-2-904, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; TRANS, from SRS, 2000 MAR p. 3414.)

FAMILIES ACHIEVING INDEPENDENCE  
IN MONTANA

37.78.1014

37.78.1014 FAIM FOOD STAMP PROGRAM: EMPLOYMENT-RELATED PAYMENTS (1) Onetime employment related payments received by a member of the household pursuant to ARM 37.78.425 will not be counted in determining food stamp eligibility and benefit amount. (History: Sec. 53-2-201 and 53-2-901, MCA; IMP, Sec. 53-2-901, MCA; NEW, 1996 MAR p. 284, Eff. 1/26/96; TRANS, from SRS, 2000 MAR p. 3414.)

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